IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO. 5493 OF 2004

Mr.Ramchandra Pancharinath Vadake & ors ..Petitioners
vs
Mr.Purushottam Baburao Vadake & ors .. Respondents
..
Mr.R.A.Thorat for Mr.P.P.Kakade for Petitioners
Mr.Nitin Deshpande for Respondents
COFRAM : D.G.KARNIK, J
DATE: 12TH AUGUST, 2004.

P.C.

1. Heard learned counsel for the petitioners.

2. A decree for possession has been passed against the petitioners inter alia on the ground of default. A notice demanding arrears of rent amounting to Rs.27,666/- for the period between 1st June, 1981 to 31st April, 1996 was served on the petitioner on 24th JUne, 1996. Admittedly, the petitioners has not paid any amount to the respondents within a period of one month of the receipt of the notice. There is also no dispute regarding the amount of standard rent. In para 8 of the written statement, the petitioners contended

that they had paid an amount of Rs.5000/- as advance to the landlord's brother and had spent some amount towards payment of property taxes and also claimed adjustment of some other amount totalling Rs.20,687.05. Without going into the question as to whether the petitioners were entitled to an adjustment of those amount even on the petitioner's own admission in the said written statement and amount of nearly Rs.7000/- was due from the petitioners on the date of the notice which covers the rent of about 40 months. The rent was admittedly due and was not paid within one month. Some deposit is alleged to have been made by the petitioners in a partition suit pending between the co-owners. Admittedly, the said deposit was made long after the expiry of one month of demand the notice.

3. In the circumstances, the Courts below have properly passed a decree on the ground of default. In addition, the Courts below have also passed a decree on the ground that the respondents require the suit premises reasonably and bonafide for their own use and occupation and that the petitioners had acquired suitable alternate accomodation elsewhere. These are concurrent findings of fact which need no interference in writ jurisdiction. Hence, petition rejected.

4. At the request of learned counsel for the

petitioners, operation of this order is stayed for a period of eight weeks.

5. Authenticated copy allowed.

D.G.KARNIK, J